

LICENSING AND REGISTRATION COMMITTEE

8 SEPTEMBER 2022

REPORT OF THE DEPUTY CHIEF EXECUTIVE

A.2 PROCEDURES FOR HACKNEY CARRIAGE FARE SCALE

(Report prepared by Michael Cook & Keith Simmons)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

As requested by this Committee at its 21 July 2022 (Minute 123 refers), this report sets out possible proposals for amending the delegations within the Council for considering (in the future) possible changes in the Hackney Carriage Fare Scale that applies in the District. The Committee is invited to consider the possible proposals and, if satisfied with them, to approve the recommendations below.

EXECUTIVE SUMMARY

At the Committee's meeting on 21 July 2022, consideration was given to two requests to amend the Hackney Carriage Fare Scale applicable across the District. The requests for the amendments had been received on 16 June and 20 June respectively. One request was then withdrawn and this left the other request. This request was agreed to by the Committee who authorised the necessary public notice to be given. No representation was received in the prescribed period (no less than 14 days) following the Public Notice. Consequently, the Hackney Carriage Fare Scale (as amended) then came into effect immediately following the end of the 14 days stated in the Public Notice.

In considering the request for an amendment to the Hackney Carriage Fare Scale, the Committee considered that there should not be any unnecessary delays between a request being submitted and it being considered (and any amendment approved). On this basis, the Committee resolved that "options for revising the constitutional provisions relating to the consideration of Hackney Carriage Fare Scale change requests be submitted to a future meeting of the Committee."

By way of background, the legal framework for setting Hackney Carriage Fare Scales by District Councils is set out in the Local Government (Miscellaneous Provisions) Act 1976, Section 65. It reads as follows:

"(1)A district council may fix the rates or fares within the district as well for time as distance, and all other charges in connection with the hire of a vehicle or with the arrangements for the hire of a vehicle, to be paid in respect of the hire of hackney carriages by means of a table (hereafter in this section referred to as a "table of fares") made or varied in accordance with the provisions of this section.

(2)(a)When a district council make or vary a table of fares they shall publish in at least one local newspaper circulating in the district a notice setting out the table of fares or the variation thereof and specifying the period, which shall not be less than fourteen days from the date of the first publication of the notice, within which

and the manner in which objections to the table of fares or variation can be made.

(b) A copy of the notice referred to in paragraph (a) of this subsection shall for the period of fourteen days from the date of the first publication thereof be deposited at the offices of the council which published the notice, and shall at all reasonable hours be open to public inspection without payment.

(3) If no objection to a table of fares or variation is duly made within the period specified in the notice referred to in subsection (2) of this section, or if all objections so made are withdrawn, the table of fares or variation shall come into operation on the date of the expiration of the period specified in the notice or the date of withdrawal of the objection or, if more than one, of the last objection, whichever date is the later.

(4) If objection is duly made as aforesaid and is not withdrawn, the district council shall set a further date, not later than two months after the first specified date, on which the table of fares shall come into force with or without modifications as decided by them after consideration of the objections.”

The legislation does not prescribe whether a decision to fix/amend hackney carriage fare Scales must be made by Council, a Committee, Sub-Committee or an Officer. As such, and by virtue of Section 101 of the Local Government Act 1972, it is for the District Council to make its own arrangements for the discharge of this function.

At present, the Council's constitution provides for the function of fixing/amending the Hackney Carriage Fare Scale for the District to be delegated to this Committee. Practically therefore, when a request is made by Hackney Carriage trade associations or groups of Licensees, Officers will arrange for the Committee to sit to determine if they wish to accept the request, amend the Fare Scale and invite representations from the trade and public. Should any representations be received, another meeting has to be arranged for the Committee to consider them and determine whether to confirm, or not, the new Fare Scale.

Should the Committee wish for streamlining the process, the Committee would need to consider a new process/delegation for recommendation. As referenced at the 21 July 2022, any decision could be submitted then to the Constitution Review Working Party. A proposal could be submitted directly by this Committee to Council. However, the route through the Constitution Review Working Party would enable any changes to be implemented along with any others in a consistent timeframe and in accordance with Article 15.

Set out at Appendix A to this report are possible proposals for amending the delegations within the Council for considering (in the future) requests to amend the Hackney Carriage Fare Scale that applies in the District. These changes would envisage such requests being determined by Officers following consultation with the Chairman of the Committee. If approved, public notice would be given and, after the prescribed period (no less than 14 days), they would take effect. If representations were received in response to the public notice (within the prescribed period), the proposal and representations would be submitted to this Committee to review and determine whether the proposed changes were to proceed.

RECOMMENDATION

- a) That the Committee considers the proposals for amending the delegations within the Council for determining (in the future) possible changes in the Hackney Carriage Fare Scale that applies in the District (as set out in this report and Appendix A to it); and
- b) That, subject to approving the proposals in respect of (a) above, the Committee recommends the proposals to the Constitution Review Working Party of the Council for incorporation with other proposals for changes to the Constitution.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Council's Corporate Plan 2020-24 includes the theme of "Effective and positive Governance". Keeping the delegation arrangements for functions within the sphere of the Committee supports that theme.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

None at this time.

Risk

The greatest risk in respect of this matter is that the process set out in law is not followed correctly and therefore additional costs and reputational damage arises. The steps set out in this report seek to militate that risk.

LEGAL

If the Committee was minded to authorise a change in streamlining the process of the Hackney Carriage Fare Scale, the Council must follow the procedures in accordance with the provisions of Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976.

Article 15 of the Council's Constitution states at 15.02(a) any proposals for changes to the Constitution arising from a review of the Constitution whether it be initiated by the Monitoring Officer or a resolution by a member body, will be reported to the Cabinet via the Portfolio Holder with responsibility for corporate governance, which in turn will make recommendations to the Council.

Councillor G. Guglielmi as Portfolio Holder for Corporate Finance and Governance holds a cross-party Constitution Review Working Party on an annual basis, and is due to commence its review in October 2022.

The proposal of delegating such decisions to an Officer in consultation with the Chairman of the Committee is in line with the practice adopted for Fees and Charges setting for Executive functions, which is undertaken by Assistant Directors in consultation with the relevant Portfolio Holder.

As with all delegations to Officers paragraph 7 of Schedule 2 in Part 3 of the Constitution (Part 3.6 - Green) states that *“the delegation of powers to officers is underpinned by the principle and culture of consultation and liaison with Members, as appropriate and the ability for Officers to refer matters to the relevant decision making body, where it is felt that this is appropriate due to the nature of the issue”*.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Consultation/Public Engagement.

CRIME AND DISORDER

There are no Crime and Disorder implications

EQUALITY AND DIVERSITY

There are no Equality and Diversity implications arising from this report. However, the Committee will need to have regard to the Public Sector Equality duty when it assesses the requests submitted to it.

CONSULTATION AND PUBLIC ENGAGEMENT

None at this time, consideration would need to be taken by the Constitution Review Working Party.

AREAS/WARDS AFFECTED

All wards

PART 3 – SUPPORTING INFORMATION

BACKGROUND

None

CONCLUSION

The Committee has requested “options for revising the constitutional provisions relating to the consideration of Hackney Carriage Fare Scale change requests be submitted to” it and this report invites the Committee to consider the possible proposals set out.

BACKGROUND PAPERS FOR THE DECISION

None

APPENDIX

Appendix A - Current Terms of Reference & Delegated Powers of the Licensing & Registration Committee (with proposals shown in red for changes concerning the fixing/amending of Hackney Carriage Fare Scales)

CURRENT TERMS OF REFERENCE & DELEGATED POWERS OF THE LICENSING & REGISTRATION COMMITTEE (WITH PROPOSALS SHOWN IN RED FOR CHANGES CONCERNING THE FIXING/AMENDING OF HACKNEY CARRIAGE FARE SCALES)

Committee	Functions and Terms of Reference	Delegated Functions
<p>Licensing and Registration Committee</p>	<p><i>Functions relating to licensing, registration (B), Health and Safety at Work (C) and Smoke-free premises (FA) as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution.</i></p> <p>Additional roles and functions of the Committee are as set out below:</p> <ul style="list-style-type: none"> • Setting the Hackney Carriage Fare Scale operating within the District. • Deciding whether to make a change to the Hackney Carriage Fare Scale operative within the Tendring District having considered the representations received in response to the Public Notice duly given pursuant to Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976; • Recommending the Licensing and Gambling Policy Statements and Sex Establishment Policy to full Council; • Power to consider, consult and consider representations in respect of an Early Morning Restriction Order (EMRO) under Sections 172A to 172E of the Licensing Act 2003 and to recommend implementation or rejection of application for EMRO to Full Council; and • Power to consult and consider representations in respect of Late Night Levy (LNL) Provisions under Chapter 2 of 	<ol style="list-style-type: none"> 1. All licensing and registration functions are delegated to the Miscellaneous Licensing Sub-Committee or the Premises/Personal Licences Sub-Committee as detailed below and otherwise the Assistant Director (Partnerships Governance-) except determining licensing conditions and criteria and commenting on proposed policies, which remain with the Committee. 2. All functions relating to Health and Safety at Work and Smoke Free Premises are delegated to the Corporate Director (Operations and Delivery). 3. The initial, in principle, consideration of a proposal received for a change to the Hackney Carriage Fare Scale operative within the District and decision to give public notice (pursuant to Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976) of

	<p>Part 2 of the Police Reform and Social Responsibility Act 2011 and to recommend implementation or rejection of an application to introduce LNL to Full Council.</p> <p><i>The discharge of the following Part II – Miscellaneous Functions as set out in Schedule 1 of the Local Authorities (Functions and Responsibilities) Regulations 2000 (as amended) and as detailed in Appendix 1 to Part 3 of the Constitution:</i></p> <ul style="list-style-type: none">• Power to make closing order with respect to take away food shops; and• Power to make an order identifying a place as a designated public place for the purposes of police powers in relation to alcohol consumption. <p>In addition the following powers and duties:</p> <ul style="list-style-type: none">• The setting of any fees and/or charges payable to the Council for the issue of any licences (with the exception under the Scrap Metal Act 2013) or otherwise in relation to any of the functions falling within the remit of the Licensing Committee and various Sub-Committees.	<p>the Council’s intention to amend the Fare Scale is delegated to the Assistant Director (Governance) in consultation with the Chairman of the Committee.</p> <p>4. The final approval and implementation of the amended Hackney Carriage Fare Scale in the circumstances where no representations have been received in response to the public notice referred to in 3 above is delegated to the Assistant Director (Governance) in consultation with the Chairman of the Committee.</p>
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